IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1522 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SANYASIMADA SEVA SAHAKARI MANDALI LTD & 1 - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR SK JHAVERI for Petitioner(s) : 1 - 2.
MR JK SHAH for Respondent(s) : 1 -2
RULE SERVED for Respondent(s) : 3 - 4.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 24/11/2006

ORAL JUDGMENT

1. Heard learned advocate Ms. Jhaveri for the petitioners and learned AGP Shri J.K. Shah for the respondents.

2. In this petition, the petitioners have challenged an order dated 24th June, 1997 passed by the District Registrar as confirmed by the Appellate and Revisional Authorities by orders dated 24th February, 1999 and 3rd February, 2000 respectively. By order dated 24th June, 1997, the District Registrar was pleased to order liquidation of the petitioner no.1-Cooperative Society in terms of powers under Section 107 of the Gujarat Cooperative Societies Act. Some of the main reasons for resorting to liquidation were certain irregularities in functioning of the society as well as its financial condition. The petitioners preferred an appeal against the said order. However, the appeal came to be rejected by an order dated 24th February, 1999 by the Additional Registrar(Cooperative Society), Government of Gujarat. Further, revision application filed by the petitioner to the State Government also came to be dismissed by an order dated 3rd February, 2000. The petitioners have therefore, approached this Court by filing the present petition challenging the said adverse orders.

3. During the pendency of this petition, this Court had granted stay against the implementation of the above orders. The petitioner no.1-society therefore, continued to operate during the pendency of the petition despite the orders passed by the authorities. More than six years

have passed since the stay was granted in favour of the petitioner. Admittedly, the petitioner no.1-society has continued to operate under protection of this Court. During the interregnum therefore, many further developments would have taken place. Primarily, therefore, it would not be appropriate to examine the issues as emerging from the record which pertains to period between 1997 to 2000. The question whether the petitioner no.1-society should be wound up or not would have to be gone into on the basis of material on record as well as further developments which may have taken place in the mean time. Additionally, it is being pointed out by learned advocate for the petitioners that appeal of the petitioner was decided by the Additional Registrar in absence of advocate of the petitioners.

4. Considering all these aspects of the matter, it would be appropriate to remand the proceedings to the Appellate authority for fresh consideration and disposal in accordance with law, after hearing the petitioners or their advocate and taking into account further material, if placed on record by the petitioners. For the above purpose, Appellate order as well as revisional order are quashed. Proceedings are remanded to the Registrar, Cooperative Societies for fresh consideration of the appeal of the petitioners. If the

petitioners produce additional material on record within a period of four weeks from today, same shall also be taken into account while disposing of the appeal.

5. Till the appeal is disposed of as stated above, status-quo as on today shall continue.

6. With these directions, the petition is disposed of. Rule made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)

(raghu)